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JAN 27 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of	)	MM Docket No. 92-266
the Cable Television Consumer	)	
Protection and Competition Act	)	
of 1992	)	
	)	
Rate Regulation	)	

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FEDERAL COMMUNICATIONS COMMISSION
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To: The Commission

COMMENTS OF COALITION OF SMALL SYSTEM OPERATORS

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List A B C D E

Dated: January 27, 1993

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SUMMARY

Small systems (with fewer than 1,000 subscribers) serving sparsely populated rural areas operate with much tighter cost-to-income ratios than large urban systems. It is mandatory that these smaller systems charge more on a per channel basis than larger systems because they have fewer overall subscribers from whom to recover their substantial costs.

Basic rates for small systems should be presumed reasonable, rebuttable only if those rates exceed a benchmark established just for small systems. The separate basic rate benchmark for small systems should be based on rate surveys for systems with fewer than 1,000 subscribers. In order to provide some measure of flexibility to these small systems, the benchmark should be set at 120 percent of the 75th percentile of basic rates currently charged by small systems, with additional flexibility built in for systems with less than 500 subscribers and systems serving areas with less than 30 homes passed per mile.

The separate small system rate benchmark for tiered service should be based on the 90th percentile of rates currently charged by small systems for basic service, equipment charges and tiered service. The tiered rate also should be flexible with respect to systems with less than 500 subscribers and systems serving areas with less than 30 homes passed per mile.

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To: The Commission

COMMENTS OF COALITION OF SMALL SYSTEM OPERATORS

On behalf of the Coalition of Small System Operators, 1/ we hereby submit the following comments in response to the Notice of Proposed Rulemaking in the captioned proceeding (the "NPRM").

The Small System Operators operate cable television systems primarily serving small, rural communities which otherwise would not have cable service because large system operators have avoided building systems in these sparsely populated areas. Together, the Small System Operators operate a total of 2,214 systems serving 880,391 subscribers in more than 30 states. This represents

1/ The Coalition of Small System Operators includes: Midcontinent Media, Inc., Galaxy Cablevision, Vantage Cable, Classic Cable, USA/MW1 Cablesystems, Inc., Buford Television, Inc., Triax Communications Corp., Douglas Communications Corp. II, Leonard Communications, Inc., Phoenix Cable, Inc. and Star Cable Associates. The Coalition, which has participated in other rulemaking proceedings related to the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act"), continues to expand. Therefore, the numbers of subscribers, systems, etc. served by these operators may be different than those supplied previously.

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close to 20 percent of the headends in the U.S. cable industry but less than two percent of the subscribers. 2/ Almost all of these systems serve fewer than 1,000 subscribers. In fact, approximately 76 percent of the systems serve fewer than 500 subscribers, and the average system with less than 1,000 subscribers serves 286 subscribers. The average density for these systems with less than 1,000 subscribers is 38 homes passed per mile, an extraordinarily low figure considering that the average number of homes passed per mile for the top 100 systems in the United States is 87. 3/

The Small System Operators typically operate with a lower profit margin 4/ than large operators because low density requires that the smaller systems build more miles of plant to reach the same number of subscribers. Furthermore, fixed costs can be spread over fewer subscribers in these small systems. There is little likelihood that their circumstances will improve in the future, as many of the rural areas served by these operators have declining populations. 5/ When faced with rate regulation and the substantial administrative costs inherent in reregulation, many small cable operators may choose to deactivate their most marginal systems -- the smallest ones -- leaving rural areas without cable television, unless the Commission crafts rules which limit the regulatory burden on small systems.

2/ There are an estimated 56,551,610 basic cable households in the United States and 11,457 headends according to an A.C. Nielsen Study. "Cable Television Development," National Cable Television Association (October 1992).

3/ 1992 Cable & Station Coverage Atlas at 5.

4/ We note that most of the Small System Operators' systems do not operate at a profit. Many are highly leveraged and spend much of their income on debt service. Nevertheless, for convenience we use the term "profit margin."

5/ One Operator reports that an area served by his systems in western Kansas has declined in population in each of the last three Census reports.

I. THE COMMISSION SHOULD CREATE A PRESUMPTION THAT THE RATES OF SYSTEMS WITH FEWER THAN 1,000 SUBSCRIBERS ARE REASONABLE.

Congress recognized in the 1992 Cable Act that cable systems with less than 1,000 subscribers typically have less ability than larger systems to absorb administrative costs. See Section 623(i). Not only are their profit margins typically squeezed by less density in homes passed and a smaller subscriber base over which to spread costs, see NPRM ¶ 131, but the cost of undergoing any kind of rate review can be prohibitive.

For example, the Commission has proposed to use rate benchmarks to establish a presumption of reasonableness for basic and tiered rates, and to allow cable operators whose rates are above a particular benchmark to show by cost-of-service analysis that its rates are nevertheless reasonable. The Commission understands that such a "safety net" is required because a cable operator has a constitutional right to recover its investment, costs, and a reasonable profit. NPRM at ¶¶ 59, 61. For a small system operator, however, such a safety net would be wholly illusory. The expense of conducting a cost-of-service proceeding would typically approach (or exceed) the increased revenue from a rate increase. A one dollar rate increase for a system of 1,000 subscribers, for example, would generate $12,000 in additional annual revenue. It is difficult to imagine a cost-of-service proceeding where the expense to the regulated company would not surpass that annual revenue increase. The Small System Operators request the Commission to adopt its suggestion that the basic rates for systems of less than 1,000 subscribers be presumed reasonable, NPRM at ¶ 131, and that the analysis used to rebut that presumption fully recognize the added costs incurred by smaller systems.

A. Smaller Systems Typically Have Higher Costs Per Subscriber.

Small systems generally have higher costs per subscriber than large systems because small systems have fewer subscribers over whom to spread the costs of constructing, operating and maintaining their systems. For example, the operation from multiple headends can greatly increase construction and operating costs. One Small System Operator, which serves 304,734 subscribers from 416 headends, estimates that the cost of adding a single channel of programming (approximately $1,800) throughout all of its systems would be $748,000, or $2.45 per subscriber. By contrast, adding the same channel to a single suburban system serving 304,000 subscribers by one headend would cost only about $.05 a subscriber. The extra expense for the small multiple system operator to add a single channel to its line-up is one example why smaller systems warrant special treatment including the creation of separate basic rate benchmarks. Small and large systems cannot be evaluated together under a single rate benchmark without the benchmark being too restrictive to the smaller ones.

Administrative costs for smaller systems are also disproportionately higher than those incurred by larger systems. A Small System Operator estimates that, under deregulation, it was required to prepare and file approximately 4,250 separate reports each year with governmental entities for its 416 systems, which serve 304,734 subscribers. This amounts to one report for each 72 subscribers. If all of the Small System Operators filed the same number of annual filings, they would submit an aggregate of 22,582 reports, for an average of one report for each 39 subscribers. By contrast, based on the number of annual filings per system reported by the Small System Operator, a large operator with a single system of 304,000 subscribers would have to make only 10.2 annual filings, or one report for each 29,803 subscribers.

The small, scattered systems must also deal with many more franchise authorities, adding to their administrative costs. One typical Small System Operator has approximately 200 franchises serving a total of 52,335 subscribers (an average of 261 subscribers per franchise). The costs of negotiating, tracking and insuring compliance with these various agreements are substantial when compared with the cost of a single franchise agreement required for a given metropolitan area system serving a large number of subscribers. These figures illustrate once again how administrative costs per subscriber for operators with small, scattered systems far outstrip similar costs for a single, larger operator.

B. Smaller Systems Typically Have Less Density.

The most dramatic variable separating small systems from large ones is density, measured in homes passed per mile. The lower density of small systems translates into higher costs per subscriber compared with larger systems because, for a given mile of plant, there are fewer subscribers to pay the cost of construction and operation.

The impact of density on the profitability of a cable television operation cannot be overstated. For example, assuming a 60 percent penetration rate for a system with a density of 25 homes passed per mile, the cost of building one mile of plant (about $12,000) would be $800 per subscriber. For a system with 40 homes passed per mile, the cost per subscriber would be $500. For a system with 80 homes passed per mile, the cost per subscriber would be $250. And, for a large metropolitan system operator, serving an area where the density is 150 homes passed per mile, the cost of building the same plant would be $133.33

per subscriber. 6/ The low density system's per subscriber cost here, more than six times that of the high density system, provides dramatic evidence that adoption of a separate benchmark for small rural systems with few subscribers per mile is not only appropriate, but required.

The density factor, combined with other advantages enjoyed by large operators, such as volume discounts on programming and other economies of scale, puts small operators in a different league than large ones. It would be inappropriate for the Commission to impose the same rate benchmarks and procedures on large systems that have lower per subscriber costs and small ones with substantially higher costs and often marginal profits.

C. Smaller Systems Typically Must Rely More On Revenue From Basic Service.

The basic rate benchmark that is established for small systems is critical inasmuch as these operators depend upon revenues from basic service more than large operators. First, in areas where there is no off-air broadcast reception, subscribers often choose to receive only basic service, unlike urban and suburban dwellers who already receive a number of broadcast signals and thus would have little reason to subscribe only to basic service.

Second, because of the high per subscriber cost of constructing a rural system, smaller systems tend to offer fewer channels -- in direct contrast to the new 150 channel systems of some larger operators -- in order to reduce programming costs and keep overall rates reasonable. In addition, smaller systems often cannot afford the same overall channel capacity as larger systems.

6/ Even if costs were three times more for construction of the urban system, they still would not approach the small systems' per subscriber costs.

Therefore, smaller systems typically do not offer as many channels of programming other than basic as a larger operator.

Third, there are limited opportunities available for small system operators to generate revenue from ancillary services. For example, the small systems are generally not addressable, so small operators typically cannot offer lucrative pay-per-view service. Also, most small systems do not benefit from local advertising income which may produce substantial revenue streams for larger systems. 7/

The fourth reason that small operators rely more heavily on basic service for revenue is that the high cost of certain services provided by small systems makes them impossible to recover in a single, lump-sum charge, so the cost must be added to the charge for basic service. For example, the Small System Operators estimate that their average cost for an initial installation is $125.00. 8/ Despite the actual cost of the installation, the highest amount charged by any of the Small System Operators for an initial installation is $50.00. Therefore, a given Small System Operator must recover $75.00 per subscriber -- just to cover the cost of installation -- before it makes a profit on service to that subscriber. Although larger operators may also discount installation fees, they typically have more services to recoup these costs than smaller system operators do.

7/ Even if small systems were able to generate revenues from local advertising or pay-per-view, the amount that could be earned would be limited because small systems would have only three or four available channels on which to implement these services. By contrast, larger systems could have pay-per-view on 50 channels and could generate local advertising revenues on 15 to 20 channels.

8/ This cost is more than large operators would likely incur because much of the $125.00 cost is attributable to the long distances which must be traveled by field service representatives in order to reach subscribers' homes.

Fifth, many of the Small System Operators' systems do not offer any tiered service due to technical limitations. Without revenues from tiers to subsidize basic service, the basic rate becomes even more important.

Finally, the few other ancillary services from which small system operators may generate income are also now subject to regulation. Therefore, options such as additional outlets and remote control devices, which have effectively subsidized the cost of basic service, will no longer do so.

It should be emphasized that the dependence of small system operators on revenues from basic service does not mean that they have priced basic unreasonably or overburdened basic customers with unfair rates. There is a limit to the amount that any given operator may charge for basic service and expect to attract subscribers. Moreover, as noted below, small system rates are typically disciplined by the rates of larger systems in the general area. Therefore, even though basic revenues are important to small systems, the high cost to these systems of providing that service -- combined with the market-imposed ceiling on the amount that may be reasonably charged for it -- renders unlikely the chance that small operators will make an unfair profit from basic revenue.

D. Although Their Costs Are Usually Higher Per Subscriber, Smaller Systems' Rates Are Disciplined By The Rates Of Larger Systems In The Area.

The Small System Operators are limited in the amount they can charge for cable service by the rates charged by large operators in the same region. For example, one Small System Operator, with systems serving small towns in Illinois and Kentucky, has never been able to charge rates much above the rates charged by nearby larger operators. This Small System Operator operates systems serving rural areas, and areas abutting cities served by large system operators. Even though the smaller operator's fixed costs per subscriber are higher than those of the large system operators and the density of the small systems is lower, any time the Small System Operator has attempted to increase its rates to an amount in excess of the rate charged by one of the larger, urban operators, subscribers and franchise authorities have cited the larger systems' rates as a reason for opposing the proposed increases. In order to maintain good relationships with customers and franchise authorities, the Small System Operator has refrained from raising rates more than 50¢ or $1.00 above those of nearby larger systems.

II. BECAUSE THE RATES FOR SMALLER SYSTEMS ARE PRESUMED REASONABLE, RATE ADJUSTMENTS SHOULD BE PERMISSIBLE WITHOUT APPROVAL.

Rate adjustments for systems of less than 1,000 subscribers should be allowed to go into effect after the statutorily required 30-days notice. It should be the responsibility of the franchising authority to initiate a rate review where the authority considers it appropriate. Only where the rate increase can be shown to be unreasonable based on the benchmarks set by the Commission, may the authority then require that it be rolled back.

Rate review proceedings not only are expensive for smaller systems; they are expensive for smaller franchising authorities. The Small System Operators believe that the 1992 Cable Act is clear that franchising authorities are required to certify rate regulation responsibility and procedures only when they affirmatively choose to do so. Section 621(a)(3) ("A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) . . . "). The Commission should make explicit that a franchising authority may wait to certify rate regulation responsibility until it believes regulatory oversight is necessary in a particular case.

III. THE PRESUMPTION OF REASONABLENESS FOR BASIC RATES COULD BE REBUTTED WHERE RATES ARE IN EXCESS OF 120 PERCENT OF THE 75TH PERCENTILE OF CURRENT RATES.

In order to establish the small system basic rate benchmark, the Commission should separately evaluate rate surveys returned by systems serving fewer than 1,000 subscribers. The surveys should be further categorized by channel capacity, and by the number of basic service channels offered. The small system basic rate benchmarks should be set at the amount which is 120 percent of the 75th percentile of the amount that each of these respective groups of small operators is currently charging on a per channel basis for basic service. In addition, very small operators, serving fewer than 500 subscribers, and systems serving areas where the density is less than 30 homes passed per mile should each receive a 20 percent upward adjustment of the benchmark for each of these factors because of their inherent higher costs.

A. The Commission Should Require That The Presumption Of Reasonableness Be Tested Against Current Basic Rates Among Smaller Systems.

The measure of reasonableness of small systems' rates for basic service must be based on rates charged by other similarly situated systems with comparable costs and revenue streams (i.e., other small systems). It is not possible to establish reasonable rates for small systems based on rates charged by small systems subject to effective competition because there is virtually no actual competition among small, rural systems. The costs per subscriber are too high. Moreover, it would be infeasible for a system to operate in one of these areas with less than 30 percent penetration because the limited subscriber base would not support the system. Based on the lack of competition, combined with the fact that small systems' rates are disciplined by larger systems' rates and the higher costs faced by small systems, the Commission may safely look to prevailing rates for smaller systems in order to establish an appropriate small system rate benchmark.

B. The Universe Should Be Systems Of Less Than 1,000 Subscribers.

The definition of "small system" for purposes of application of the presumption of reasonable rates should be tailored to protect those rural systems with very small subscriber bases, which generally are affected by high costs per subscriber.

The size of an individual system, and not the size of the company that owns the system, should be the determinative factor in deciding whether a given system is entitled to treatment as a "small system" for purposes of rate regulation. This approach is supported by the fact that multiple system operators which operate small systems do not generally benefit from economies of scale.

The Small System Operators do not enjoy the kind of market power, for example, that enables large system operators to obtain special rates from programmers. Indeed, the only economies of scale that the Small System

Operators are generally able to take advantage of result from the consolidation of offices. 9/

It is unlikely that adoption of a definition of a "small system" which would include operators with more than one system would be of any substantial benefit to large MSO's because operation of systems with less than 1,000 subscribers is, by design, not a significant part of their operations.

C. Some Flexibility Should be Built into the Benchmark.

It is especially important that the Commission not impose too low a benchmark for small systems, because the constitutional cost-of-service "safety net" which insures a reasonable rate of return on investment is not practical for smaller systems. Because it would be unduly burdensome to require small systems to justify their rates by proving their costs in an administrative proceeding, special care must be taken to set a benchmark that permits small systems to recover all their costs and a reasonable profit.

Establishing the basic rate benchmark for small systems at 120 percent of the 75th percentile of rates currently charged by these systems is warranted based on the lack of flexibility that these small systems have. Basing the benchmark at the 75th percentile will avoid reliance on any rates that are unusually high. Allowing rates to be 20 percent higher than the 75th percentile will recognize the need for flexibility to be certain not to set the benchmark

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9/ Even this savings is tempered by extra costs which are unavoidable because the systems are so widely dispersed and the subscribers are not concentrated in a single area. For example, field service representatives are stationed throughout the service area. Each must have his own vehicle, supplies and equipment -- including a fax machine for receiving materials from the centralized office facility. Centralized facilities also must pay for 800 numbers to enable distant subscribers to reach the office without incurring a charge for long distance.

unconstitutionally low. It will also recognize that many small systems currently subsidize their basic service with equipment charges, which will no longer be permissible under the 1992 Cable Act. For example, small systems frequently recover some of the high cost of providing basic service through charges for remotes and additional outlets. As the prices for remotes and additional outlets are lowered close to cost, this critical subsidy will be lost. Because smaller systems depend so heavily on basic rate revenue, they will not be able to shift the subsidy to tiered service. 10/ Some of that subsidy of basic service will have to be replaced with revenue from basic service.

In calculating the small system basic rate benchmark in the first instance, the Commission should not include franchise fees, PEG costs or retransmission consent fees. Instead, these variable costs, over which operators have little control, should be separated from costs to be included in the benchmark and ultimately listed separately as line items on subscribers' bills. The benchmark for small systems also should be raised annually consistent with a random sampling of systems.

10/ Indeed, it may be impossible for many of these systems to subsidize basic service with tiered rates because many of the Small System Operators' systems do not offer tiers of service other than the basic tier. Instead, because their equipment often consists of fixed receivers instead of agile receivers, it is technically impossible for some of these small systems to offer basic separately from tiered service. This technical limitation, which would cost about $1,600 per channel to fix, means that these systems cannot use tiered service to subsidize basic service. For this reason, too, flexibility in basic rates is required.

D. The Commission Should Recognize That Rates May Have To Be Higher Where The System Has Less Than 500 Subscribers Or Where It Has Less Than 30 Homes Per Mile.

The especially high costs per subscriber in systems with fewer than 500 subscribers, attributable to the very small subscriber bases from which these systems may recover their costs, warrant special consideration for these systems. These systems often must charge higher rates to stay in business. For example, one of the Small Systems Operators estimates that the cost of constructing a system serving 66 subscribers is nearly double the cost per subscriber of constructing a system serving 903 subscribers. Based on the cost of the headend, trunk and distribution, and land and buildings, the operator estimates that the cost per subscriber of constructing the 903 subscriber system would be about $472 and the cost per subscriber of constructing the 66 subscriber system would be about $900. Systems with fewer than 500 total subscribers must be granted some flexibility to recover their consistently higher per subscriber costs. The same analysis is true for systems with less than 30 homes per mile. The Commission's rules already recognize that systems with less than 30 homes passed per mile require special treatment. See 47 C.F.R. § 63.56(d)(1).

As noted above, the additional costs for these low-density systems are extraordinary -- more than double the construction costs per subscriber of the average systems. The proposed increase of the benchmark by 20 percent for those systems with either of these characteristics -- and 40 percent where both characteristics are present -- is justified based on the reality that these systems must charge more per subscriber to recover their costs because of the limited number of subscribers in the system (or in a given mile). Based on the added costs of these systems, a 20 percent multiplier for each characteristic is conservative.

IV. THE PRESUMPTION OF REASONABLENESS FOR TIERED RATES COULD BE REBUTTED WHERE RATES ARE IN EXCESS OF THE 90TH PERCENTILE OF CURRENT RATES.

Just as the cost per subscriber of providing basic service is higher for small systems (with under 1,000 subscribers), the cost per subscriber of providing tiers of service also soars above those of larger systems. The cost of tier programming is much higher on a per subscriber basis for small systems than for large ones, which often have the benefit of volume discounts. 11/ For this reason, as well as the reasons cited for separate treatment of small systems in setting the basic benchmark, small systems (with fewer than 1,000 subscribers) should be evaluated separately from large systems when the Commission is setting the benchmark for tiered programming.

The same general principles should apply to regulation of small systems' rates for tiered service as for basic, with some adjustment to reflect the differences in Congressional intent for regulation of basic and tier services. First, the rate surveys received by systems with fewer than 1,000 subscribers should be broken down by total number of channels of programming offered. Then, for each group, the Commission should set the small system tier rate benchmark at the 90th percentile of the rates currently charged by members of that group. As with basic, tiered rates for systems serving fewer than 500 subscribers and systems with densities below 30 homes passed per mile should be evaluated based on benchmarks that are 20 percent higher (for each characteristic) than the tier benchmark for other small systems.

11/ Although the Commission has initiated a proceeding to examine program access issues, Notice of Proposed Rulemaking, FCC 92-543 (released December 24, 1992), it is unlikely that program vendors will refrain from giving discounts to their best customers, large cable operators.

Use of the 90th percentile in the context of rate regulation for tiered service is appropriate. It provides added pricing flexibility for small systems with high costs and marginal profits. In addition, it is consistent with Congressional intent which is clearly different for basic service and tiered service. The language of the Act shows that Congress intended to regulate tiered service less rigorously than basic, providing only for regulation of unreasonable rates. The goal of Congress with respect to tier rates -- to weed out through regulation those operators charging egregiously high rates -- would be served by implementation of the 90th percentile benchmark.

When calculating the tiered service benchmark, the Commission should include: (i) the basic rate; (ii) the tier rate; and (iii) the average revenue per subscriber for equipment, including remotes, converters and additional outlets. This totaling of revenue is necessary in order to provide small systems the ability to readjust their pricing for various services so long as their overall prices remain below the tier benchmark rate. Many small systems will doubtless have to readjust their prices in order to reduce rates for remotes, converter boxes and other equipment. It would be unfair to establish a tier benchmark which does not take into account the reduction in prices for equipment and basic service that may be necessary to comply with the Act. This method for establishing a tier benchmark for small systems will still identify systems charging excessively, but it will eliminate the need for many small systems with high costs to make a cost-of-service showing to justify tier rates in excess of a less realistic benchmark.

V. REGULATION OF EQUIPMENT RENTALS.

As mentioned above, because their subscriber bases are limited, and they generally lack the ability to provide ancillary services such as local advertising and pay per view, small systems must not be further restricted from generating income from the few services they have the ability to provide.

Small systems (with fewer than 1,000 subscribers) currently rely on revenues from the lease of remote control devices and additional outlets to subsidize their programming services. Although the Act restricts the extent to which operators may profit from the lease of equipment used for basic service, the Small System Operators urge the Commission to adopt an interpretation of the statute that will permit small operators flexibility in pricing equipment such as remotes where permissible under the language of the statute. As part of this flexibility, for example, the Commission should refrain from requiring that the amount that Small System Operators may charge for remote control devices be reduced close to cost where the devices are not used only for basic service. Where a subscriber takes a programming service in addition to basic, the price for the remote should be permitted to be higher.

The installation of second sets is another major income generator for small operators. As with remotes, the income from the installation of additional outlets has enabled small operators to keep the price of basic service down. Consistent with the objective of insuring the continued viability of small systems by permitting them discretion to control the few revenue sources available, the Small System Operators urge a narrow interpretation of the Act with respect to pricing equipment not used only for the provision of basic service. For example, only the additional wiring required for reception of basic service on an additional outlet should be rate regulated on a cost-of-equipment basis. The other equipment associated with additional outlets, such as these converter boxes and remotes which are not necessary for the reception of basic service, are luxury items and should be regulated as such. So long as the Commission considers charges for equipment under the tier benchmark, there is no need for concern that allowing rates for this equipment to exceed cost will permit unreasonable profits.

VI. PROCEDURES.

The Commission should take several steps to discourage frivolous rate complaints and to reduce administrative burdens on small system operators who cannot afford to expend substantial amounts on the administrative and legal costs of rate review or complaint proceedings.

All complaints relating to tiered service should be considered by the franchise authority in the first instance. This will add simplicity and certainty to the administrative process and, to the extent that such complaints are resolved at the local level, the cost of responding to a complaint will likely be less than more formal FCC proceedings. In addition, each complaint should be required to set forth a prima facie showing that the tiered rate exceeds the applicable rate benchmark. As part of this prima facie showing, complainants should be required to include: the system operator and address; number of subscribers; location; channel capacity; name and address of franchise authority; old and new rates for basic service, additional outlets and tiered service; number of channels of basic and tiered service; and density of system (measured in homes passed per mile). The franchise authority, which would have on record all of the information required to make out a prima facie tiered rate complaint, should undertake a preliminary review of the complaint to determine whether the tiered rates for that system exceed the applicable benchmark. Only if the franchise authority determines that the benchmark has been exceeded should the complaint be forwarded to the FCC.

Complaints received at the FCC should be dismissed unless they make out a prima facie showing. Only if the Commission staff determines that a prima facie showing has been made should the cable operator be expected to respond.

VII. CONCLUSION.

Systems serving fewer than 1,000 subscribers often provide video service to rural areas which otherwise have limited television service available. These systems should not be subjected to the same rate regulations governing larger systems serving more densely populated, metropolitan areas. Instead, the Commission should reduce administrative costs on these systems and establish a presumption that small systems' rates are reasonable unless those rates exceed a benchmark separately established for small systems. Also, additional leeway should be given to systems with fewer than 500 subscribers and systems serving areas with densities below 30 homes passed per mile. Finally, rate regulation provisions in the Act should be interpreted in a way that provides small operators with high costs and marginal profits the flexibility required to insure the continued viability of their service to rural areas.

Respectfully submitted,

COALITION OF SMALL SYSTEM OPERATORS

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NAME OF OPERATOR	TOTAL # OF SUBSCRIBERS	TOTAL # OF COMMUNITY UNITS	TOTAL # OF STATES SERVED	TOTAL # OF HEADENDS	# OF HEADENDS WITH LESS THAN 1,000 SUBSCRIBERS
Douglas Communications Corp. II	103,090	494	13	437	428
Galaxy Cablevision	54,887	200	6	129	112
MW1/USA Cablesystems, Inc.	37,334	484	16	443	443
Vantage Cable Associates, L.P.	30,737	126	7	126	123
Triax Communications Corp.	326,052	1,075	16	444	361
Buford Television, Inc.	77,206	260	8	168	154
Classic Cable	29,904	78	5	73	65
Midcontinent Media, Inc.	72,502	174	4	170	162
Star Cable Associates	60,279	150	6	62	33
Leonard Communications, Inc.	61,500	226	9	125	110
Phoenix Cable, Inc.	26,900	58	8	37	25